

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2012-219-C - ORDER NO. 2012-746  
SEPTEMBER 25, 2012

IN RE: Application of Crexendo Business Solutions,	)	ORDER GRANTING
Incorporated for a Certificate of Public	)	CERTIFICATE
Convenience and Necessity to Provide	)	
Resold and Facilities-Based Local Exchange	)	
and Interexchange Telecommunications	)	
Services Using Voice Over Internet Protocol	)	
Technology	)	

This matter comes before the Public Service Commission of South Carolina ("Commission") by way of the Application of Crexendo Business Solutions, Inc. ("Crexendo" or "Company") for authority to provide local exchange and interexchange telecommunications services within the State of South Carolina (the "Application"). The Company requests that the Commission regulate its telecommunications services under S.C. Code Ann. Sections 58-9-575 and 58-9-585.

The Company's Application was filed pursuant to S.C. Code Ann. Section 58-9-280, S.C. Code Ann. Section 58-9-585, and the Rules and Regulations of the Commission. By letter, the Commission instructed the Applicant to publish, one time, a prepared Notice of Filing in a newspaper of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in this proceeding. The Company complied with this instruction and provided the Commission

with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC").

Subsequently, counsel for SCTC filed with the Commission a Stipulation between the SCTC and the Applicant. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to the Company, provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on August 27, 2012, at 10:00 a.m., in the Offices of the South Carolina Public Service Commission. The Honorable F. David Butler, Hearing Examiner, presided. Scott Elliott, Esquire, represented the Company. C. Lessie Hammonds, Esquire, represented the Office of Regulatory Staff ("ORS"). Jeff Korn, Chief Legal Officer of the Applicant, appeared and testified in support of the Application.

At the outset of the hearing, Crexendo's counsel sought to clarify two matters concerning the Company's Application. First, counsel pointed out that in requesting alternative regulation, the Company seeks regulatory treatment as authorized for Time Warner Cable Information Services (South Carolina), LLC by the Commission in Order No. 2004-495 in Docket No. 2003-362-C. Accordingly, Crexendo requests that the Commission regulate its telecommunications services under S.C. Code Ann. Sections 58-9-575 and 58-9-585.

Second, counsel informed the Hearing Examiner that Crexendo was not providing telecommunications services in South Carolina. Counsel was responding to the Hearing Examiner's prehearing inquiry that the Company explain the circumstances of its Federal

Communications Commission Form 499 filing concerning the provision of telecommunications services in South Carolina. Counsel pointed out that Section 227 of the Form 499 requires Crexendo to inform the Federal Communications Commission (“FCC”) in which states it is doing business and in which states it anticipated doing business in the following twelve months. At the time of its most recent FCC filing, Crexendo intended to seek a Certificate of Public Convenience and Necessity to provide telecommunications services in South Carolina and accordingly, the Company’s FCC filing was technically correct.

According to the record, Crexendo is an Arizona Corporation. Mr. Korn testified that the Applicant is seeking certification in South Carolina. The Applicant has received authority from the South Carolina Secretary of State to transact business within the State of South Carolina. According to Mr. Korn, Crexendo seeks authority to provide telecommunication services throughout the State of South Carolina. As set out in the record, Crexendo provides its voice service using IP technology, the Company’s privately managed IP network, and the PSTN. These voice services are offered to commercial business customers. These services, which are comprised of non-voice transmission services, provide high-capacity, point-to-point, point-to-multipoint, and multipoint-to-multipoint dedicated connections between and among one or more customer locations and/or Crexendo. The services may utilize Ethernet interfaces, optical fiber and/or coaxial cable facilities and are designed and provisioned pursuant to contracts with customers.

Crexendo's VoIP Service is a cloud-based offering. Crexendo renders its services from a data center that is PCI compliant and offers many layers of redundancy to provide highly available VoIP services to its customers. Crexendo will resell the facilities and services of AT&T of South Carolina if, and as necessary, to provide local service.

Crexendo delivers all of its VoIP services from its facilities to its devices (phones and adapter) hooked in the customer premise. These services are delivered over the Internet using standards based protocols such as SIP, HTTP, RTP, and RTCP. Every Crexendo customer is required to have high-speed internet. Crexendo seeks authority to provide competitive local exchange and interexchange telecommunications services. Mr. Korn further testified regarding the managerial experience of the Applicant; and that Crexendo had substantial financial resources to ensure the viability of the Company.

Mr. Korn finally testified that granting Crexendo's Application will introduce a telecommunications service provider committed to providing high-quality, innovative, and technologically advanced services that will further increase telecommunications competition in the State of South Carolina. He opined that the Commission's granting of the Application is therefore in the public interest.

Mr. Korn stated that the Company will abide by all applicable Commission rules, regulations and orders upon the Company receiving certification to provide intrastate interexchange and local exchange telecommunications services in South Carolina.

The Applicant has requested certain waivers of Commission regulations. The Company requests that it be exempt from any rules or regulations that would require it to keep financial records in conformance with the Uniform System of Accounts ("USOA").

Additionally, the Company seeks a waiver of 26 S.C. Code Ann. Regs. 103-631 so that it will not be required to publish local exchange directories. The Company will contract with at least one incumbent local exchange carrier (or its directory publishing affiliate) for the inclusion of the Company's CLEC databases into the master customer database of the local exchange carrier. The Applicant requested that the Company be granted a waiver of 26 S.C. Code Ann. Regs. 103-610 so that the Company be permitted to maintain its records outside of South Carolina. The Company wishes to maintain its books and records at its headquarters at its principal place of business. Last, the Company testified that since the Applicant's local exchange calling areas will initially mirror the service area of the incumbent local exchange carriers, the Applicant requested a waiver of the map filing requirement of 26 S.C. Code Ann. Regs. 103-612.2.3 and 103-631.

The ORS informed the Commission that it had no objection to the Commission's granting Crexendo's Application for a Certificate of Public Convenience and Necessity to provide local exchange and interexchange telecommunications services using Voice over Internet Protocol technology.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

## **FINDINGS OF FACT**

1. The Company is a duly organized corporation which exists under the laws of the State of Arizona and has been authorized to do business in the State of South Carolina by the Secretary of State.

2. The Company is a provider of local exchange and interexchange telecommunications services using Voice over Internet Protocol technology and wishes to provide its services in South Carolina.

3. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280 (B)(1).

4. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B)(3).

5. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280 (B)(4).

6. The Commission finds that the services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280 (B)(2).

7. The Commission finds that the provision of local exchange service by the Company "does not otherwise adversely impact the public interest" S.C. Code Ann. Section 58-9-280 (B)(5).

8. Following execution of the Stipulation with the SCTC, the SCTC has withdrawn its opposition to the Application.

### **CONCLUSIONS OF LAW**

1. The Commission concludes that the Company possesses the managerial, technical, and financial resources to provide the competitive local exchange and interexchange telecommunications services as described in the Application.

2. The Commission concludes that the Company's "provision of service will not adversely impact the availability of affordable local exchange service."

3. The Commission concludes that the Company will participate in the support of universally available telephone service at affordable rates to the extent that the Company may be required to do so by the Commission.

4. The Commission concludes that the Company will provide services that will meet the service standards of the Commission.

5. The Commission concludes that the provision of local exchange services by the Company will not otherwise adversely impact the public interest.

6. Based on the above findings of fact, the Commission determines that a statewide Certificate of Public Convenience and Necessity should be granted to the Company to provide competitive local exchange services. In addition, the Company is granted authority to provide intrastate interexchange services.

7. The Commission concludes the Company's telecommunications services shall be regulated in accordance with the provisions for alternative regulatory treatment pursuant to S.C. Code Ann. Section 58-9-575 and S.C. Code Ann. Section 58-9-585.

Accordingly, the Commission would not fix or prescribe the rates, tolls, charges, or rate structures for Crexendo's interexchange and local services or for its operator and directory assistance services. Crexendo would file and maintain price lists for these services without filing a maximum rate schedule. Thus, Crexendo will maintain flexibility in its pricing, and it can adjust to rapidly changing market conditions and provide the consumer with another unique choice in the bundling arrangement proposed in the Application.

8. We conclude that the Applicant's request for waiver of 26 S.C. Code Ann. Regs. 103-610 should be granted, since strict compliance with the regulation potentially causes undue hardship on the Company. We also grant exemption from the policies requiring the use of USOA. In addition, we grant waiver of 26 S.C. Code Ann. Regs. 103-631, which requires publication of a local telephone directory. Last, we grant a waiver of 26 S.C. Code Ann. Regs. 103-612.2.3, which requires filing a map of the service territory.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity is granted to Crexendo Solutions, Inc. to provide competitive local exchange and interexchange telecommunications services.

2. The terms of the Stipulation between the Company and the SCTC is approved and adopted as part of this Order. The Stipulation is attached as Order Exhibit

1. Any proposal to provide competitive local exchange telecommunications services to rural service areas is subject to the terms of the Stipulation.



3. If it has not already done so by the date of issuance of this Order, the Company shall file its revised tariffs utilizing the Commission's e-filing system for tariffs. The revised tariffs should be electronically filed in a text searchable PDF format using the Commission's DMS System (<http://dms.psc.sc.gov>). An additional copy should be sent via email to [etariff@psc.sc.gov](mailto:etariff@psc.sc.gov) to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov>). Future revisions to the tariffs should be made using the ETariff System. The revised tariffs shall be consistent with the findings of this Order and shall be consistent with the Commission's rules and regulations.

4. The Company is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that, for access charge purposes, resellers should be treated similarly to facilities-based interexchange carriers.

5. With regard to the Company's interexchange services, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

6. To the extent the Company resells services, the Company shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If the Company changes underlying carriers, it shall notify the Commission in writing.

7. With regard to the origination and termination of toll calls within the same LATA, the Company shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has

been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission ("FCC"), pursuant to the Telecommunications Act of 1996 (See. 47 CFR 51.209). Specifically, the Company shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

8. Crexendo shall comply with Title 23, Chapter 47, South Carolina Code of Laws Ann. which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a 911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs the Company to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is a memo from the State 911 Office at the Office of Research & Statistics of the South Carolina Budget and Control Board. This memo provides information about contacting County 911 Coordinators. By this Order and prior to providing voice or dial-tone services within South Carolina, Crexendo is directed to contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

9. The Applicant shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, the Company shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Applicant to file annual financial information as directed by the Commission or ORS and shall be filed no later than **April 1st**.

Commission gross receipts forms are due to be filed with the Commission and with the ORS no later than **August 31st** of each year. The proper form for filing gross receipts information can be found at the ORS website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov); the appropriate form is entitled "Gross Receipts Form."

Each telecommunications company certified in South Carolina is required to file annually with the ORS the Intrastate Universal Service Fund ("USF") worksheet, which may be found on the ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). This worksheet provides the ORS with information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is to be filed annually, no later than **July 1<sup>st</sup>**, with the ORS.

10. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests

and repairs. In addition, the Company shall provide to the Commission and the ORS in writing the name of authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Crexendo shall file the names, addresses, and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the ORS website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov); this form shall be utilized for the provision of this information to the Commission and the ORS. Further, the Company shall promptly notify the Commission and the ORS in writing if the representatives are replaced.

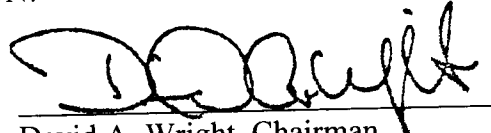
11. The Company shall conduct its business in compliance with Commission decisions and orders, both past and future.

12. By its Application, the Company requested a waiver of 26 S.C. Code Ann. Regs. 103-631. In lieu of publishing local directories, the Company informs the Commission that it will contract with the incumbent LECs to provide the Company's customers with directory listings, as well as to undertake the distribution of directories. The Commission finds the Company's request reasonable and grants the requested waiver of the application of 26 S.C. Code Ann. Regs. 103-631. Further, the Company is granted a waiver of 26 S.C. Ann. Regs. 103-610, requiring the Company to maintain its financial books and records within the State of South Carolina. The Company is hereby granted permission to maintain its financial books and records at its principal place of business. Further, the Company is granted a waiver of the requirement that books and records be maintained in accordance with the Uniform Systems of Accounts ("USOA"). The

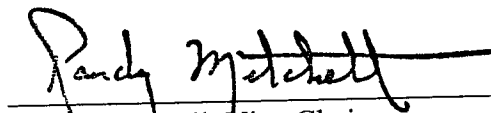
Company is directed to comply with all rules and regulations of the Commission, unless the Commission specifically waives compliance with a regulation. Last, the Commission grants the Applicant's request for the waiver of the requirement that it file a map of its service territory as required by 26 S.C. Code Ann. Regs. 103-612.2.3.

13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
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David A. Wright, Chairman

ATTEST:

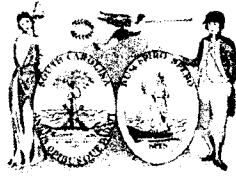
  
\_\_\_\_\_  
Randy Mitchell, Vice Chairman  
(SEAL)

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*State Budget and Control Board*  
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Bobby Bowers  
DIRECTOR

August 2, 2004

To: Telephone Companies New to South Carolina

In an effort to continue providing quality emergency services to the citizens of South Carolina, the State 911 Office requests that before beginning telephone services in a county, you contact the 911 Coordinator in that county. This will allow both parties to obtain important information about providing 911 services in that county. If you have already begun services, then contact the coordinator as soon as possible.

A list of County 911 Coordinators can be found on the South Carolina E911 homepage at [www.ors.state.sc.us/digital/E-911.ASP](http://www.ors.state.sc.us/digital/E-911.ASP). If you have any questions related to 911 in South Carolina, you may contact E911 Coordinations at the Office of Research and Statistics at 803-734-3883. The person responsible for this can also be found on the 911 homepage. Please be aware that some cities may have their own E911 systems, these are also listed on the 911 homepage. These city coordinators will need to be contacted in addition to the county coordinators.

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BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

Docket No. 2012-219-C

Re: Application of Crexendo Business Solutions, Inc. )  
for a Certificate of Public Convenience and )  
Necessity to Provide Resold and Facilities-based )  
Local Exchange and Interexchange Telecommu- )  
nications Services in the State of South Carolina )  
\_\_\_\_\_ )

**STIPULATION**

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Crexendo Business Solutions, Inc. ("Crexendo") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Crexendo's Application. SCTC and Crexendo stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Crexendo, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.
2. Crexendo stipulates and agrees that any Certificate which may be granted will authorize Crexendo to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.
3. Crexendo stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.
4. Crexendo stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area,

unless and until Crexendo provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Crexendo acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Crexendo stipulates and agrees that, if Crexendo gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Crexendo will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Crexendo acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Crexendo, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

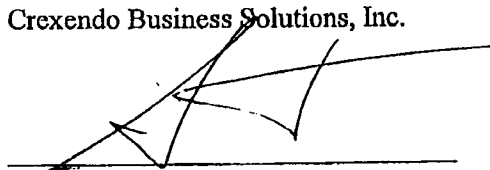


8. Crexendo agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. Crexendo hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 24<sup>th</sup> day of July, 2012.

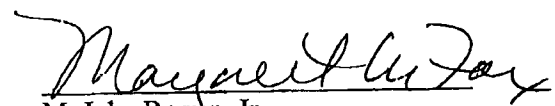
Crexendo Business Solutions, Inc.



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Coalition

ATTACHMENT A  
South Carolina Telephone Coalition Member Companies  
for Purposes of Local Service Stipulation

Chesnee Telephone Company  
Chester Telephone Company  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company  
Home Telephone Company, Inc.  
Lancaster Telephone Company  
Lockhart Telephone Company  
McClellanville Telephone Company  
Norway Telephone Company  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
Pond Branch Telephone Company  
Ridgeway Telephone Company  
Rock Hill Telephone Company  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company